

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION**

KRISTINA QUARLES,  
ADC #760441

PLAINTIFF

v.

5:14CV00252-JLH-JTK

TYRA TYLER, et al.

DEFENDANTS

**PROPOSED FINDINGS AND RECOMMENDATIONS**

**INSTRUCTIONS**

The following partial recommended disposition has been sent to United States District Judge J. Leon Holmes. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District

Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court  
Eastern District of Arkansas  
600 West Capitol Avenue, Suite A149  
Little Rock, AR 72201-3325

### **DISPOSITION**

#### **I. Introduction**

Plaintiff Quarles is an inmate confined at the W.C. “Dub” Brassell Adult Detention Center, who filed this pro se 42 U.S.C. § 1983 action, alleging violations of her First Amendment rights. By Order dated June 30, 2014 (Doc. No. 3), this Court granted Plaintiff’s Motion to Proceed in forma pauperis in this lawsuit. The Court also noted that Plaintiff’s Complaint failed to state a claim upon which relief may be granted, and provided her the opportunity to submit an Amended Complaint. (Id.) Plaintiff has now submitted an Amended Complaint (Doc. No. 4). Having reviewed the Amended Complaint, the Court finds Defendant Bolin should be dismissed for failure to state a claim upon which relief may be granted.

#### **II. Screening**

The Prison Litigation Reform Act (PLRA) requires federal courts to screen prisoner complaints seeking relief against a governmental entity, officer, or employee. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if the prisoner has raised claims that: (a) are legally frivolous or malicious; (b) fail to state a claim upon which relief may be granted; or (c) seek monetary

relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).

An action is frivolous if “it lacks an arguable basis either in law or in fact.” Neitzke v. Williams, 490 U.S. 319, 325 (1989). Whether a plaintiff is represented by counsel or is appearing pro se, his complaint must allege specific facts sufficient to state a claim. See Martin v. Sargent, 780 F.2d 1334, 1337 (8th Cir.1985).

An action fails to state a claim upon which relief can be granted if it does not plead “enough facts to state a claim to relief that is plausible on its face.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007). In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the complaint the benefit of a liberal construction. Haines v. Kerner, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. Denton v. Hernandez, 504 U.S. 25, 32 (1992).

### **III. Facts and Analysis**

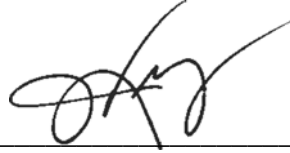
In her Complaint, Plaintiff alleges Defendants Tyler, Hunter, and Brawley tampered with her incoming and outgoing legal mail. However, she does not allege any actions by Defendant Bolin.

In order to support a claim for relief against Defendants pursuant to 42 U.S.C. § 1983, Plaintiff must allege that a person acting under the color of state law deprived him of some Constitutional right. Griffin-El v. MCI Telecommunications Corp., et al., 835 F.Supp. 1114, 1118 (E.D.MO 1993). In light of Plaintiff’s failure to allege any unconstitutional actions by Defendant Bolin, the Court finds he should be dismissed.

### **IV. Conclusion**

IT IS, THEREFORE, RECOMMENDED that Defendant Greg Bolin be DISMISSED from Plaintiff’s Complaint, for failure to state a claim upon which relief may be granted.

IT IS SO RECOMMENDED this 11<sup>th</sup> day of August, 2014.

A handwritten signature in black ink, appearing to read 'J. Kearney', is written above a horizontal line.

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JEROME T. KEARNEY  
UNITED STATES MAGISTRATE JUDGE